REMARKS

Claims 1 – 10 are in the application.

The specification and the claims, particulrly claim 1, have been amended to set forth the arrangementy of the auxiliary handle and the actuator element more specifically.

In the specification the specific structure of the auxiliary handle has been set forth, particularly the arrangement of the arms 14a and the cross arm 14b and the position of the actuator element within the plane of the auxiliary handle.

Claims 3, 5 and 8 – 10 stand withdrawn from consideration pursuant ot 37 CFR 1.142(b) as nonelected species, however, in view of the amendments to the claims and the following remarks it is respectfully submitted that claim 1 is generic and it is requested that the species requirement be withdrawn.

Claims 6 and 7 have been amended and it is believed that the informalities in these claims have been corrected.

Claim 1 has been rejected under 35 U.S.C. 103(a) as unpatentable over Gerold '708 in view of Driggers '742. Claims 2, 4, and 6 were rejected under 35 U.S.C. 103(a) as unpatentable over Gerold '708 as applied to clailm 1 and further in view of Lepold '594.

GEROLD 5,996,708

The Gerold patent discloses a percussion tool with an auxialiary handle 4. The auxiliary handle is a side handle 4 formed of two outwardly projecting parts spaced apart around the cylindrical region of the housing 2. The side handle is not spade-shaped, its parts do not include an actuator element within the plane of the side handle. There is no suggestion of a pivotally mounted actuator element. The is not disclosure of the auxiliary handle and pivotally mounted actuator element as presently set forth in claim 1, accordingly, it is respectfully submitted that Gerold does not afford any basis for the rejection of the applicants' claims.

DRIGGERS 4,819,742

Driggers discloses a vibration-damping control handle for a portable power tool.

Driggers has been cited as teaching spade-shaped auxialiary handle 30. As can be seen in Figs 1 and 2 of Driggers the handle 30 is not spade-shaped, it is five sided and does not include an actuator element.The handle merely provides a support for one hand of the operator, it is used to support and guide the motion of the shaft 16 and it is flexibily connected to the shaft 16 and functions to reduce shaft vibrations to the handle 30. There is no actuator element associated with the

handle nor any suggestion that the operator can hold the handle and at the same time manipulate an actuator element for adjusting the handle.

At most, the combination of Gerold and Diggers suggests a handle arrangement for vibration damping, there is nothing to suggest the spade-shaped handle and actuator element as set forth in the applicants' claims.

The access of the operator to the actuator element while holding the spade-shaped handle is not suggested by either of the references.

LEPOLD 6,241,594

Lepold discloses a hand machine tool adjustable front handle.

There are two handles 30 and 32 in this reference. Neither suggests a spade-shaped handle with an actuator element pivotally positioned in the plane of the handle. One of the handle units can be adjusted, however, there is no suggestion in the combination of Lepold, Gerold and Diggers which would direct a person skilled in the art to the specific auxialiary handle and actuator element claimed by the applicants.

In view of the amendments to and the distinguishing features in the claims over the references it is respectfully submitted that the claims presently in the application are allowable and a favorable action on the application is solicited.

Included is proposed drawing changes letter in view of the amendments to the specification at pages 10 and 11.

Respectfully submitted,

By _____

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on December 22, 2003.

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